

# EXHIBIT E

FRANK BERRY  
UNITED STATES vs STATE OF GEORGIA

July 29, 2022

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO.  
1:16-CV-03088-ELR

STATE OF GEORGIA,

Defendant.

VIDEOTAPED DEPOSITION OF FRANK BERRY

Taken on behalf of the Plaintiff,

pursuant to Notice and agreement of counsel,

in accordance with the Federal Rules of Civil Procedure

before Richard Bursky, RMR, CRR, CRC

Certified Court Reporter

At 2 Peachtree Street, Atlanta, Georgia

On July 29, 2022, between the hours of

9:26 a.m. and 4:03 p.m.

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1 Q What was the policy when you were Commissioner  
2 of DBHDD?

3 A I don't know.

4 Q What was DCH's participation in APEX?

5 A I don't recall what DCH's -- I don't know that  
6 DCH had a role in APEX.

7 Q So DCH was not a collaborator with APEX --  
8 excuse me -- with DBHDD in APEX when you were  
9 Commissioner of DCH?

10 A I don't recall. I don't recall Medicaid  
11 funding APEX, which is what DCH's role would have been,  
12 and I don't recall whether they were or were not.

13 Q DCH and DBHDD each have a manual, right?

14 A Yes.

15 Q And was that one of your innovations at DCH or  
16 did it always have a manual?

17 A Always had a manual.

18 Q What is the purpose of the manual at DBHDD?

19 A I believe to lay out the category of services  
20 and the requirements that you need to meet in order to  
21 deliver those services, provider manual, if that is  
22 what you are referencing.

23 Q Yes. So the provider manual described the  
24 services that were reimbursable under the Georgia State  
25 Medicaid program?

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1 A Yes.

2 Q Is the provider manual for DCH, does it have a  
3 similar purpose?

4 A Yes.

5 Q And it described the qualifications for  
6 providers?

7 A Yes.

8 Q And what certifications or licenses they  
9 needed?

10 A Yes.

11 Q One of the roles of DBHDD vis-a-vis the  
12 Medicaid program was determining what services would be  
13 provided under the Georgia State Medicaid program?

14 A Say that again.

15 Q Yes. It was the role of DBHDD in creating  
16 this provider manual to make a determination of what  
17 services would be provided for behavioral health?

18 A Yes, they coordinated with DCH on, here are  
19 the behavioral health services that we would like to  
20 have, I called it Medicaid-reimbursable, Medicaid-able,  
21 if you will.

22 Q You used the term "like." The provider manual  
23 actually established the requirements for which  
24 services were Medicaid-able, in your language, right?

25 A Say it one more time.

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1 Q Sure. The provider manual for DBHDD set forth  
2 the services that DBHDD had agreed to provide under the  
3 State Medicaid plan?

4 A Through its network of providers.

5 Q Yes.

6 A Yes.

7 Q And I think you just said that it collaborated  
8 with DCH to some extent on that on its manual?

9 A For Medicaid-reimbursable services, yes.

10 Q And through that collaboration, it was  
11 determined what Medicaid services under the Georgia  
12 State plan would be reimbursable by DCH?

13 A Yes.

14 Q And there were requirements for certification  
15 or licensing requirements under Georgia State law?

16 A Yes.

17 Q And that was one of your roles as  
18 Commissioner, to review the manual and the services  
19 offered and make sure that they were appropriate?

20 A It was the responsibility of our Medicaid team  
21 to make certain of that.

22 Q Under -- reporting to you?

23 A Yes, two layers below, but, yes.

24 Q So this Medicaid team would determine, their  
25 role was to determine what services were appropriate

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1                   Do you see that?

2                   A     Yes.

3                   Q     Did that worry you as of 2015, that GNETS was  
4 the primary service provider rather than one of the  
5 CSBs?

6                   A     I don't recall reading that in 2015. I don't  
7 recall reading that, period, but that would cause me  
8 concern.

9                   Q     Is it important that mental health services  
10 are readily available to children across Georgia in  
11 their own communities as an alternative to GNETS?

12                  A     Yes.

13                  Q     What role does DBHDD have in working to ensure  
14 that mental health services are readily available to  
15 children across the State in their own communities?

16                  A     A limited role, because their funding supports  
17 uninsured children, so DBHDD plays a limited role, and  
18 the network of providers is responsible for the  
19 delivery who have contracts with the CMOs which are run  
20 through DCH.

21                  Q     I am a little confused. Which is the State  
22 agency that is responsible to ensure that mental health  
23 services are readily available to children across the  
24 State in their own communities?

25                  A     It is a combination, it is both DBHDD and DCH.